IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

RCRev..No. 451 of 2006

RCA.150/2005 of DISTRICT COURT/RENT CONTROL COURT,KOZHIKODE
RCP.69/2004 of(RENT CONTROL.COURT,KOZHIKODE(ADDL.MUNSIFF-I)
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REVISION PETITIONERS/APPELLANTS/RESPONDENTS:
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1. K. DEVANAND RAO, AGED 46,
S/O.V. KRISHNA RAO, VANITHA JEWELLERY,
KAMMATHI ROAD, NAGARAM AMSOM AND DESOM OF
KOZHIKODE TALUK.

2. K.P. USMAN KOYA, AGED 37,
S/O.ABOOBCKER, VANITHA JEWELLERY,
KAMMATHI ROAD, NAGARAM AMSOM AND DESOM OF
KOZHIKODE TALUK.

3. P.K. AMEERALI, AGED 33,
S/O.USMAN KOYA, VANITHA JEWELLERY,
KAMMATHI ROAD, NAGARAM AMSOM AND DESOM
OF KOZHIKODE TALUK.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTSRESPONDENT/PETITIONER: :

RAJESWARI, AGED 43,
D/O.BALARAMANANDA MIRSRA MAHARAJ,
RSIDING AT VYRAGI MADHOM,
NAGARAM AMSOM AND DESOM OF KOZHIKODE DISTRICT.

BY ADV. SMT.PRABHA R.MENON

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 02/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A.ABDUL GAFOOR &

K.R. UDAYABHANU, JJ.

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R.C.R.NO.451 OF 2006

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DATED THIS THE 2ND DAY OF JANUARY 2007

ORDER

Udayabhanu,J.

The revision petitioners are the tenants who are under orders of eviction as per the concurrent findings of the courts below on the application filed by the landlord under Section 11(4)(i)of the Kerala Buildings Lease & Rent Control Act. It is the case of the petitioners that the first petitioner, who is the original lessee, is in legal possession of the premises and that the alleged sub-letting stands not proved.

2. On a perusal of the orders of the courts below, we find that the respondent/landlord has completely succeeded in piercing the veil of the alleged partnership, although the partnership deed is a registered one. It was found on evidence in the cross examination of respondents 1 and 2, i.e. the first respondent, the original lessee, and the third respondent, who

was made a partner as per the partnership deed subsequently executed, that virtually the first respondent has no role at all in the business conducted in the premises. Moreover he is not even aware of any of the details of the business activities conducted in the premises; he is not aware of the only staff employee in the business; he is not aware of whether the firm is assessed to income-tax and he has not seen the accounts maintained. The third respondent who was examined as RW2, who is a relative of the 2nd respondent, is not aware of the investment made in the business. It was found that almost the entire profits as per the terms of the partnership deed will go to the 2nd respondent. No account books to prove the investment or disbursement of profits were produced. The courts below concurrently found that the partnership deed registered is only to camouflage the sub-lease. On facts, we find that the findings of the courts below are impenetrable. There is no reason to interfere in the findings of the courts below. The rent control revision is liable to be dismissed at the threshold and we do so.

Considering the plea of the counsel for the revision petitioners, the petitioners are granted four months time from

today onwards to vacate the premises on condition that they shall remit the entire arrears of rent, if any, and continue to remit the rent due and file an affidavit before the execution court within 15 days from today that the premises shall be vacated on or before 2-5-2007.

Sd/-
K.A.ABDUL GAFOOR
JUDGE

Sd/-
ks. **K.R.UDAYABHANU,**
JUDGE

TRUE COPY

P.S.TO JUDGE